

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
TRENTON DIVISION**

Defendants.

TARA KING, ED.D., individually and on behalf of her patients, **RONALD NEWMAN, PH.D.**, individually and on behalf of his patients, **NATIONAL ASSOCIATION FOR RESEARCH AND THERAPY OF HOMOSEXUALITY (NARTH)**, **AMERICAN ASSOCIATION OF CHRISTIAN COUNSELORS (AACC)**,

Plaintiffs,

v.

Case No. 13-cv-5308

CHRISTOPHER J. CHRISTIE, Governor of the State of New Jersey, in his official capacity, **ERIC T. KANEFSKY**, Director of the New Jersey Department of Law and Public Safety: Division of Consumer Affairs, in his official capacity, **MILAGROS COLLAZO**, Executive Director of the New Jersey Board of Marriage and Family Therapy Examiners, in her official capacity, **J. MICHAEL WALKER**, Executive Director of the New Jersey Board of Psychological Examiners, in his official capacity; **PAUL JORDAN**, President of the New Jersey State Board of Medical Examiners, in his official capacity,

PLAINTIFFS' STATEMENT OF UNDISPUTED MATERIAL FACTS

1. On August 22, 2013, Plaintiffs filed an application for emergency relief to immediately restrain the enforcement of New Jersey Assembly Bill Number 3371, "An Act concerning the protection of minors from attempts to change sexual orientation," ("A3371") from violating their respective federal and state constitutional guarantees of Freedom of Speech, Free Exercise of Religion, and the fundamental right to direct the upbringing of one's child.

2. Plaintiff Dr. Tara King is a Licensed Professional Counselor, a certified Substance Awareness Coordinator, a Licensed Clinical Alcohol and Drug Counselor, and the Founder of King of Hearts Counseling Center, LLC, in New Jersey. (King Decl. ¶3). She has extensive experience in helping minors and in being able to meet their needs in both education and counseling. She has served in the education system as both a Special Education Teacher and an Administrator of Schools. That experience gives her a unique perspective and allows her to understand practical approaches to counseling minors and in helping those minors who struggle with unwanted same-sex attractions, behaviors, or identity. (*Id.*).

3. Dr. King is a former lesbian who received SOCE counseling, left the homosexual lifestyle, and now engages in SOCE counseling with many of her clients (*Id.* at ¶5, 9).

4. Dr. King testified before the legislature against A3371, stating that the parade of horrors derived from aversion techniques, such as electroshock treatments, the viewing of pornography, nausea-inducing drugs, etc., are all methods of counseling that have not been used by any ethical and licensed mental health professional in decades, and that she believes mental health professionals who engage in such practices should have their licenses revoked. (*Id.* at ¶¶ 11, 12).

5. Many of Dr. King's clients, both adult and minor, are Christians and request Christian counseling as part of the SOCE counseling that she provides. (*Id.* at ¶14).

Dr. Newman

6. Plaintiff Dr. Newman received his Doctor of Philosophy degree in Psychoeducational Processes in 1990, his Master of Arts degree in Counseling Psychology from Trinity Evangelical Divinity School in 1980, a Bachelor of Science degree in Psychology from West Virginia University in 1976, and an Associate of Arts degree in Theology from Christ for the Nations Institute in 1978. (Decl. Newman at ¶3).

7. Dr. Newman has over 33 years of experience as a mental health professional, has been a Licensed Psychologist in New Jersey since 1995. He is a Board Certified Professional Christian Counselor through the American Association of Christian Counselors. (*Id.*).

8. In 1998, Dr. Newman founded the Christian Counseling Consortium of South Jersey (“CCC”), which is a consortium of 50 active licensed and unlicensed mental health professionals, counselors, and pastors committed to engaging in counseling from a Christian perspective founded on the inherent truths of Scripture and with approximately 200 people affiliated with the CCC in some manner. (*Id.* at ¶4).

9. The CCC’s mission is to encourage and support one another in their service to Jesus Christ through the ministry and vocation of Christian mental health counseling, as well as to cooperate in serving the body of Christ and the community at large. (*Id.* at ¶5).

10. Dr. Newman is a member of the American Psychological Association (“APA”), the New Jersey Psychological Association, the Christian Association for Psychological Studies, the National Association for Research and Therapy of Homosexuality (“NARTH”), and the American Association of Christian Counselors (“AACC”). (*Id.* at ¶6).

11. Dr. Newman is also the Program Director of the International School of Christian Counseling in Lima, Peru. (*Id.*).

12. Dr. Newman’s practice is located in two offices at Hammonton, New Jersey and Linwood, New Jersey, and most of his clients seek his counsel because of his Christian identity and their trust that their Christian values and beliefs will be respected in counseling. (*Id.* at ¶7).

13. Dr. Newman currently sees approximately 35- 40 clients per week, and he counsels individuals and families concerning stress, panic and anxiety, depression, post-traumatic stress disorder, grief, couples/marital counseling, and many other mental health issues that cause

people distress, including individuals and minors who struggle with unwanted same-sex attractions, behaviors, or identity. (*Id.*).

14. Many of Dr. Newman's clients seeking SOCE counseling to reduce or eliminate their unwanted same-sex attractions, behaviors, or identity do so because their religious beliefs inform them that change is possible and that SOCE counseling can help them. (*Id.*).

NARTH

15. NARTH is a professional, scientific organization that offers hope to those who struggle with unwanted homosexuality and same-sex attractions, behaviors, or identity. NARTH has hundreds of affiliated counselors, psychologists, and psychotherapists, and seventeen of those members practice in New Jersey. (Decl. Pruden at ¶3).

16. As an organization, NARTH disseminates educational information, conducts and collects scientific research, promotes effective therapeutic treatment, and provides international referrals to those who seek its assistance. (*Id.*).

17. NARTH members currently have clients who receive SOCE counseling in New Jersey. Some of the clients of NARTH members are minors. (*Id.* at ¶8).

AACC

18. AACC is an international nonprofit professional scientific organization with 50,000 members representing the full spectrum of mental health professionals. AACC's mission is to equip its members with distinctively Christian and clinically sound psycho-educational resources and services that address the whole person and which help individuals move toward personal wholeness, interpersonal competence, mental stability, and spiritual maturity. (Decl. Scalise at ¶¶5, 6, 7).

19. AACC seeks to encourage and support Christian counseling worldwide; disseminate information, educational resources, and counseling aids; stimulate interaction and mutual growth between mental health practitioners; advocate for the balanced integration of counseling and psychological principles with theology; inspire and offer the highest levels of training and continuing education; and promote ethical practice, integrity, sound research, and excellence in the delivery of professional and pastoral services. (*Id.* at ¶8).

20. Following the New Jersey Legislature's passage of A3371, Defendant Governor Christie signed A3371 on Monday, August 19, 2013, which amended Title 45 of the Revised Statutes of New Jersey, and the law went into effect immediately. (*See* Compl. Ex. A).

21. Section 2(a) of A3371 states:

"A person who is licensed to provide professional counseling under Title 45 of the Revised Statutes, including, but not limited to, a psychiatrist, licensed practicing psychologist, certified social worker, licensed clinical social worker, licensed social worker, licensed marriage and family therapist, certified psychoanalyst, or a person who performs counseling as part of the person's professional training for any of these professions, shall not engage in sexual orientation change efforts with a person under 18 years of age."

22. Section 2(b) of A3371 states:

"[S]exual orientation change efforts" means the practice of seeking to change a person's sexual orientation, including, but not limited to, efforts to change behaviors, gender identity, or gender expressions, or to reduce or eliminate sexual or romantic attractions or feelings toward a person of the same gender; except that sexual orientation change efforts shall not include counseling for a person seeking to transition from one gender to another, or counseling that:

(1) provides acceptance, support, and understanding of a person or facilitates a person's coping, social support, and identity exploration and development, including sexual orientation-neutral interventions to prevent or address unlawful conduct or unsafe sexual practices; and

(2) does not seek to change sexual orientation.

23. The American Psychological Association convened a Task Force in 2009 to study on sexual orientation change efforts, and that Task Force issued the *Report of the American*

*Psychological Association Task Force on Appropriate Therapeutic Responses to Sexual Orientation.*¹

24. The New Jersey Legislature relied upon this APA Report as its chief source of information when considering and enacting A3371. *See* Compl. Ex. A § 1(b).

25. The Task Force was charged with reporting on “the appropriate application of affirmative therapeutic interventions for adults who present a desire to change their sexual orientation or their behavioral expression of their sexual orientation.” APA Report at 4.

26. The APA Report states that “[s]ame-sex attractions occur in a variety of sexual orientations and sexual orientation identities, and for some, sexual orientation identity (i.e., individual or group membership and affiliation, self-labeling) is fluid or has an indefinite outcome.” *Id.* at vii.

27. It further states that “[t]he recent research on sexual orientation identity diversity illustrates that sexual behavior [and] sexual attraction are labeled and expressed in many different ways, some of which are fluid.” *Id.* at 14.

28. It also notes that “[i]ndividuals with sexual attractions may understand, define, and label their experiences differently than those with similar desires because of the unique historical constructs regarding ethnicity, gender, and sexuality.” *Id.* at 30.

29. “The available evidence . . . suggests that although sexual orientation is unlikely to changes, *some individuals modified their sexual orientation identity* (i.e., individual or group membership and affiliation, self-labeling) and other aspects of sexuality (i.e., values and behavior). They did so in a variety of ways and in a variety of unpredictable outcomes.” *Id.* at 2 (emphasis added).

¹ <http://www.apa.org/pi/lgbt/resources/therapeutic-responses.pdf>.

30. The APA Report defined the term sexual orientation change efforts as “to describe a method that aims to change a same-sex sexual orientation (e.g. behavioral techniques, psychoanalytic techniques, medical approaches, religious and spiritual approaches) to heterosexual.” *Id.* at 35 n.34.

31. The APA Report stated that “recent SOCE research cannot provide conclusions regarding efficacy or effectiveness.” *Id.* at ix.

32. The APA Report also found “varying degrees of satisfaction and varying perceptions of success.” *Id.* at 45.

33. It noted that some had “altered their sexual orientation.” and that some “individuals report a range of effects from their efforts to change their sexual orientation, including both benefits and harm.” *Id.* at 50, 53.

34. The APA Report also noted significant limitations to its findings, including that “[t]o date, the research has not fully addressed age, gender, gender identity, race, ethnicity, culture, national origin, disability, language, and socioeconomic status in the population of distressed individuals.” *Id.* at 120.

35. It also noted that “sexual minority *adolescents are underrepresented* in research on evidence-based approaches, and sexual orientation issues in *children* are virtually unexamined.” *Id.* at 81 (emphasis added).

36. It continued by noting that “[n]one of the recent research (1999-2007) meets methodological standards that permit conclusions regarding efficacy or safety.” *Id.* at 2.

37. The APA Report concluded “that there is a dearth of scientifically sound research on the safety of SOCE. *Early and recent research studies provide no clear indication of the prevalence*

of harmful outcomes . . . because no study to date of scientific rigor has been explicitly designed to do so.” Id. at 42 (emphasis added).

38. It also concluded that “research on SOCE (psychotherapy, mutual self-help groups, religious techniques) has *not answered basic questions of whether it is safe or effective and for whom. . . . [R]esearch into harm and safety is essential.*” *Id.* at 90 (emphasis added).

21. “There is no consensus among scientists about the exact reasons that an individual develops a heterosexual, bisexual, gay, or lesbian orientation. Although much research has examined the possible genetic, hormonal, developmental, social, and cultural influences on sexual orientation, no findings have emerged that permit scientists to conclude that sexual orientation is determined by any particular factor or factors. Many think that nature and nurture both play complex roles....” (American Psychological Association (2008a). *Answers to your questions for a better understanding of sexual orientation and homosexuality* (available at www.apa.org/topics/orientation.pdf.)

39. The APA Report also noted that “some clients who seek SOCE may have histories of trauma (Ponticelli, 1999), **and in some individuals sexual abuse can cause sexual orientation identity confusion and other sexuality-related concerns.**” APA Report at 57 (emphasis added).

40. The other evidence relied upon by the Legislature in A3371 were position statements presented by various mental health organizations opposed to SOCE counseling. *See* Compl. Ex. A § 1(b)-(l).

41. A3371 has had an immediate detrimental impact on the ongoing professional practices, the clients, and Plaintiffs themselves, and the harm is ongoing. (Decl. Newman at ¶¶8, 12=15; Decl. King at ¶¶14-18; Decl. Pruden at ¶¶8-12; Decl. Scalise at) ¶¶19-21).

Respectfully submitted,

/s/ Demetrios Stratis

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was filed electronically with the court on September 20, 2013. Service will be effectuated by the Court's electronic notification system upon all counsel of record.

/s/ Demetrios Stratis
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